

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	
-against-	:	<u>ORDER DENYING</u>
	:	<u>RENEWED MOTION FOR</u>
	:	<u>COMPASSIONATE RELEASE</u>
ANTHONY SERRANO,	:	
	:	
	:	13 Cr. 58 (AKH)
Defendant.	:	
	:	
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ALVIN K. HELLERSTEIN, U.S.D.J.:

Defendant Anthony Serrano, who is currently serving a 264-month sentence for narcotics conspiracy, Hobbs Act robbery conspiracy, and possession of firearms in connection with a drug trafficking crime and crime of violence, renews for the third time his motion for compassionate release in light of the COVID-19 pandemic and his numerous preexisting health conditions. Serrano additionally argues that the Supreme Court's holdings *United States v. Johnson*, 135 S. Ct. 2551 (2015), *United States v. Davis*, 139 S. Ct. 2319 (2019), and *United States v. Barrett*, 937 F.3d 126 (2d Cir. 2019) call into question the validity of his sentence and contribute to the extraordinary and compelling reasons to reduce his sentence. Finally, Serrano's motion argues that the sentencing factors in 18 U.S.C. § 3553(a) counsel in favor of a reduction in sentence. For the reasons identified below, Serrano's motion is denied.

On September 3, 2020, I denied Serrano's first motion for compassionate release, explaining that while Serrano had established extraordinary and compelling circumstances, the Section 3553(a) factors overruled those reasons. *See* ECF No. 757. On February 1, 2021, I denied his second motion, explaining that the extraordinary and compelling reasons that Serrano had previously established no longer support a reduction in

sentence. *See* ECF No. 790. On October 18, 2022, Serrano filed the instant motion. *See* ECF No. 802.

I find once again that Serrano has not alleged extraordinary and compelling reasons for a sentence reduction and that the Section 3553(a) factors still weigh against any reduction in his sentence.

Serrano notes that he has contracted COVID-19 in prison and is still suffering its effects. However, because the risk of reinfection is low, courts in this district have found that extraordinary and compelling reasons do not exist where defendants have previously contracted COVID-19. *See United States v. Camacho*, 13 CR. 58 (AKH), 2021 WL 260122, at *2 (S.D.N.Y. Jan. 26, 2021); *United States v. Mateus*, No. 14 CR. 504-1 (KPF), 2020 WL 5096062, at *4 (S.D.N.Y. Aug. 28, 2020) (collecting cases). Having reviewed Serrano's medical records, I find that the extraordinary and compelling reasons that Serrano previously established no longer support a reduction in sentence. *See United States v. Perez*, No. 04 Cr. 937-1 (NRB), 2020 WL 4677586, at *1 (S.D.N.Y. Aug. 11, 2020) ("While it is unfortunate that defendant suffered from COVID-19 while in custody, contraction of a disease generally does not constitute an extraordinary and compelling basis for release. The fact that defendant recovered from COVID-19 further supports this conclusion."). Additionally, the Second Circuit has already addressed Serrano's arguments based on *Johnson*, *Davis*, and *Barrett*, finding that the validity of Serrano's conviction was unaffected by those holdings.


Even if Serrano had established extraordinary and compelling reasons, those reasons do not outweigh the Section 3553(a) factors that I previously considered. The nature of Serrano's crime, the need for deterrence, and Serrano's criminal history all weigh against a reduction in sentence. *See United States v. Petersen*, No. 3:16-CR-109 (SRU), 2021 WL 217425, at *5 (D. Conn. Jan. 21, 2021) ("Nothing has changed with respect to my

consideration of the section 3553(a) factors”). Accordingly, Serrano’s renewed motion for compassionate release is denied. The Clerk is directed to close the open motion, ECF No. 802.

SO ORDERED.

Dated:

April 26 2023
New York, New York


ALVIN K. HELLERSTEIN
United States District Judge